

STATE OF INDIANA  
COUNTY OF MARION

SS: IN THE MARION CIRCUIT/SUPERIOR COURT  
CAUSE NO.

98019211 CP 4036

STATE OF INDIANA,

Plaintiff,

v.

BLOSSOM CHEVROLET, INC.,  
an Indiana corporation,

Defendant.

FILED

NOV 20 1992

Jay L. Mowery

VERIFIED COMPLAINT FOR INJUNCTION

The Plaintiff, State of Indiana, by Linley E. Pearson,  
Attorney General of Indiana, by Steven A. Taterka and Joel D.  
Lyttle, Deputy Attorneys General, alleges as follows:

JURISDICTION

1. This action is brought pursuant to the authority of  
IC 24-5-0.5-4(c) and 8 for injunctive relief, restitution, civil  
penalties, investigative costs and other relief by reason of the  
Defendant's conduct, hereinafter alleged, in violation of the  
Indiana Deceptive Consumer Sales Act, IC 24-5-0.5-1 et seq.

PARTIES

2. The Defendant, Blossom Chevrolet, Inc., is an  
Indiana corporation, with a principal place of business located at  
1850 North Shadeland Avenue, City of Indianapolis, Marion County,  
Indiana 46219. At all times relevant hereto, the Defendant was  
engaged in the retail sale of motor vehicles.

3. Whenever in this Petition reference is made to any  
act of the aforementioned Defendant, such allegation shall be

deemed to mean that the Defendant, its principals, agents, representatives or employees did or authorized such acts to be done while acting within the scope of their duties, employment or agency.

#### FACTS

4. Beginning at an exact date unknown to the Plaintiff, but known to the Defendant, and continuing through the filing of this complaint, the Defendant has engaged in the solicitation and retail sale of motor vehicles and has intended to induce and, in fact, has induced consumers to purchase motor vehicles.

5. Beginning at an exact date unknown to the Plaintiff, but known to the Defendant, the Defendant has represented to purchasers of motor vehicles, expressly or by implication, that such purchasers are obligated to pay an intangibles tax assessed by the State of Indiana.

6. Beginning at an exact date unknown to the Plaintiff, but known to the Defendant, the Defendant has represented to purchasers of motor vehicles, expressly or by implication, that the Defendant is authorized, as agent for the State of Indiana, to collect funds from such purchasers for payment of an intangibles tax assessed by the State of Indiana.

7. Beginning at an exact date unknown to the Plaintiff, but known to the Defendant, the Defendant has represented to purchasers of motor vehicles, expressly or by implication, that all funds collected from such purchasers for payment of an intangibles tax will be remitted to the State of Indiana.

8. Beginning at an exact date unknown to the Plaintiff, but known to the Defendant, the Defendant has represented to purchasers of motor vehicles, expressly or by implication, that the final negotiated retail selling price of its motor vehicles, excluding taxes, includes the entire amount of profit to be received by the Defendant.

9. In truth and in fact, beginning upon a date prior to January 1, 1983, and ceasing on November 10, 1988, the State of Indiana, pursuant to the authority of IC 6-5.1 et seq., assessed an annual tax upon persons exercising control over certain items defined as "intangibles". Included among the items defined as intangibles, and thus subject to the "intangibles tax", were written instruments evidencing debt, including retail installment contracts, executed by purchasers of motor vehicles.

10. In truth and in fact, pursuant to IC 6-5.1 et seq., purchasers of motor vehicles were not liable for payment of the intangibles tax.

11. The representations made by the Defendant as set forth in paragraphs five (5) through eight (8) were false, misleading and were made with intent to deceive.

#### OFFENSES CHARGED

12. The Defendant's representations, made expressly or by implication, that purchasers of motor vehicles are obligated to pay an intangibles tax assessed by the State of Indiana constitute misrepresentations as to the characteristics of the subject of consumer transactions in violation of IC 24-5-0.5-3(a)(1).

13. The Defendant's representations, made expressly or by implication, that purchasers of motor vehicles are obligated to pay an intangibles tax assessed by the State of Indiana constitute misrepresentations as to the obligations accompanying consumer transactions in violation of IC 24-5-0.5-3(a)(8).

14. The Defendant's representations, made expressly or by implication, that it is authorized, as agent for the State of Indiana, to collect funds from purchasers of motor vehicles for payment of an intangibles tax assessed by the State of Indiana constitute misrepresentations as to the characteristics of the subject of consumer transactions in violation of IC 24-5-0.5-3(a)(1).

15. The Defendant's representations, made expressly or by implication, that it is authorized, as agent for the State of Indiana, to collect funds from purchasers of motor vehicles for payment of an intangibles tax assessed by the State of Indiana constitute misrepresentations as to the Defendant's sponsorship, approval or affiliation in violation of IC 24-5-0.5-3(a)(7).

16. The Defendant's representations, made expressly or by implication, that all funds collected from purchasers of motor vehicles for payment of an intangibles tax will be remitted to the State of Indiana constitute misrepresentations as to the characteristics of the subject of consumer transactions in violation of IC 24-5-0.5-3(a)(1).

17. The Defendant's representations, made expressly or by implication, that the final negotiated retail selling price of

its motor vehicles, excluding taxes, includes the entire amount of profit to be received by the Defendant constitute misrepresentations as to the characteristics of the subject of consumer transactions in violation of IC 24-5-0.5-3(a)(1).

18. The Defendant's representations, made expressly or by implication, that the final negotiated retail selling price of its motor vehicles, excluding taxes, includes the entire amount of profit to be received by the Defendant constitute misrepresentations as to price advantage of the subject matter of consumer transactions in violation of IC 24-5-0.5-3(a)(6).

#### IRREPARABLE INJURY

19. The misrepresentations as alleged in paragraphs five (5) through eight (8) will continue and will injure irreparably the citizens of Indiana unless the Defendant is enjoined therefrom.

#### RELIEF

WHEREFORE, the Plaintiff, State of Indiana, seeks judgment as follows:

A. Pursuant to IC 24-5-0.5-4(c)(1), permanently enjoin the Defendant, its agents, representatives, employees, successors and assigns, and all persons acting or claiming to be acting on its behalf through any corporate or business name or device, from representing that purchasers of motor vehicles are obligated to pay an intangibles tax assessed by the State of Indiana;

B. Pursuant to IC 24-5-0.5-4(c)(1), permanently enjoin the Defendant, its agents, representatives, employees, successors and assigns, and all persons acting or claiming to be acting on

its behalf through any corporate or business name or device, from representing that it is authorized, as agent for the State of Indiana, to collect funds from purchasers of motor vehicles for payment of an intangibles tax assessed by the State of Indiana;

C. Pursuant to IC 24-5-0.5-4(c)(1), permanently enjoin the Defendant, its agents, representatives, employees, successors and assigns, and all persons acting or claiming to be acting on its behalf through any corporate or business name or device, from representing that all funds collected from purchasers of motor vehicles for payment of any tax will be remitted to the State of Indiana if such representation is false;

D. Pursuant to IC 24-5-0.5-4(c)(1), permanently enjoin the Defendant, its agents, representatives, employees, successors and assigns, and all persons acting or claiming to be acting on its behalf through any corporate or business name or device, from representing that the final negotiated retail selling price of its motor vehicles, excluding taxes, includes the entire amount of profit to be received by the Defendant if such representation is false;

E. Pursuant to IC 24-5-0.5-4(c)(1), enter an order requiring the Defendant, for each purchaser of a motor vehicle whose purchase from the Defendant occurred on or after January 1, 1983, who paid any sum denominated in a motor vehicle purchase contract as an intangibles tax, to provide to the Plaintiff such purchaser's name and last known address and the exact amount of the sum so denominated;

F. Pursuant to IC 24-5-0.5-4(d), limit the application of each contract between the Defendant and each purchaser of a motor vehicle whose purchase from the Defendant occurred on or after January 1, 1983, and who paid any sum denominated in a motor vehicle purchase contract as an intangibles tax, so that any provision contained in said contract which obligates said purchaser to pay any sum so denominated is declared void and unenforceable, and enjoin the Defendant from pursuing collection thereof;

G. Pursuant to IC 24-5-0.5-4(c)(2), enter judgment against the Defendant in the amount of all payments tendered to the Defendant, its agents, employees, and other representatives, for payment of any sum denominated as an intangibles tax in a motor vehicle purchase contract by each purchaser of a motor vehicle whose purchase from the Defendant occurred on or after January 1, 1983;

H. Pursuant to IC 24-5-0.5-4(g), enter judgment against the Defendant for civil penalties of up to Five Hundred Dollars (\$500.00) for each misrepresentation as set forth in paragraphs five (5) through eight (8);

I. Pursuant to IC 24-5-0.5-8, enter judgment against the Defendant for civil penalties of up to Five Hundred Dollars (\$500.00) for each misrepresentation as set forth in paragraphs five (5) through eight (8);

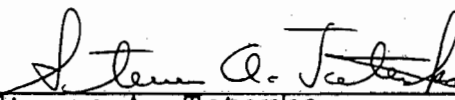
J. Pursuant to IC 24-5-0.5-4(c)(3), enter judgment against the Defendant in the amount of the Plaintiff's reasonable

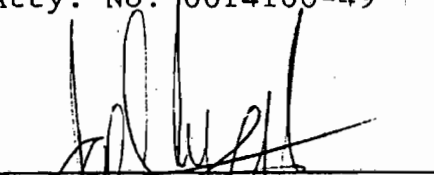
costs incurred in the investigation and prosecution of this cause;  
and

K. Award such other and further relief as the Court  
deems just and proper.

Respectfully submitted,

LINLEY E. PEARSON  
Attorney General of Indiana  
Atty. No. 0005657-49

By:   
Steven A. Taterka  
Deputy Attorney General  
Atty. No. 0014160-49

By:   
Joel D. Lyttle  
Deputy Attorney General  
Atty. No. 0015496-77

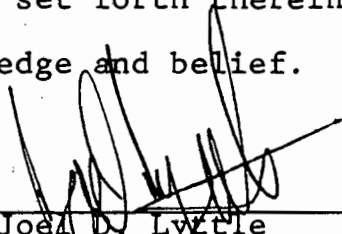
Office of Attorney General  
219 State House  
Indianapolis, IN 46204-2794  
Telephone: (317) 233-3715



VERIFICATION

STATE OF INDIANA       )  
                              )  
COUNTY OF MARION       ) SS:

I, Joel D. Lyttle, Deputy Attorney General, Office of Attorney General, State of Indiana, being duly sworn upon my oath, depose and say that I have read the foregoing Verified Complaint for Injunction, and that the matters set forth therein are true and accurate to the best of my knowledge and belief.

  
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Joel D. Lyttle  
Deputy Attorney General

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 19th day of November, 1992.

My Commission Expires:

Feb. 20, 1992

County of Residence:

Hancock

  
\_\_\_\_\_  
Notary Public

CONNIE RICHTER  
\_\_\_\_\_  
Notary's Printed Signature

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219 State House  
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